

Remarks/Arguments

Claims 1-26 are pending in this application, but claims 3, 4 and 7-24 have been withdrawn from consideration, leaving claims 1, 2, 5, 6, 25 and 26 under examination.

In the September 18, 2007 office action, the Examiner has essentially repeated his previous comments concerning Hummer. The Examiner has said that Hummer provides a clamp having first and second opposing clamp surfaces, one of which moves to press against the other to grip an upper portion of the sod between them.

While it is respectfully submitted that Hummer does not provide anything which would normally be called a clamp, nevertheless the applicant appreciates the Examiner's voice mail message of December 24, 2007. In that message, the Examiner indicated that the claims were too broad and would read on such things as tongs or other articles which could pick up grass blades or pick up a sod member. He indicated that significant structure should be inserted in the claims. As a result of this guidance, the applicant has amended the claims to insert additional detail, and to clarify the differences between claim 1 and the Hummer reference and from any other known prior art.

Before discussing the claim amendments, the applicant makes the following brief comments about Hummer. Hummer does not provide anything normally considered to be a clamp. Instead, Hummer provides a set of "spears" or piercing rods **42**, which penetrate almost completely through the sod to be lifted. The Hummer piercing rods **42** cannot form a clamp, because they are spaced from each other and never contact each other. This feature is described in Hummer at column 5, lines 54 and following, which state that "the spiked ends **44** for each pair of actuators **40** are located approximately 2.0 inches apart in the direction of the rows **50b-50e**" and that "the actuator rods **42** are approximately 0.5 inches in diameter (column 5, lines 58-60). The Hummer disclosure states that the actuators **40** are "spaced approximately 7.0 inches apart from the next adjacent group". Therefore, the Hummer actuating rods can never touch each other, and this is graphically shown in Hummer Fig. 6. In fact, it would be contrary to the object of Hummer if the rods **42** touched each other, since then the penetration holes

would be larger and more visible, and a major purpose of Hummer is to produce penetration holes which are as small as possible and are not readily visible.

The way in which Hummer supports a piece of sod is not by clamping an upper part of the sod between clamping surfaces and then suspending the sod from the clamp. Instead, Hummer states at column 7, lines 27-30: "The sharpened ends **44** of the actuator rods pierce the selected grass turf tile **12** and firmly engage the grass turf tile **12** to the frame **20** for placement or replacement." In other words, the Hummer spears or rods **42** do not clamp the sod tile between each other. Instead, they hold the sod tile against the frame **20**. In effect, the Hummer rods or spears **42** form a lower support surface for the sod tile.

To clarify the differences between the applicant's claimed method and the Hummer reference, the applicant's claims have been substantially amended. Claim 1 now recites a method of handling a sod slab in which a set of clamps is provided. The clamps have been recited as each having first and second opposing clamp surfaces, and as having an open condition in which the clamp surfaces are spaced apart from each other, and a closed condition in which the clamp surfaces press against each other. Very importantly, in the applicant's method as recited in currently amended claim 1, at least one of the set of clamps and the sod slab is moved toward the other, with the clamps in open condition, until the clamps engage the upper portion of the sod. The clamps are then closed, gripping the upper portion of the sod between the opposing clamp surfaces of the clamps. The clamp set is then moved, with the sod suspended from the clamps of the clamp set.

It is submitted that amended claim 1 clearly distinguishes from Hummer, since Hummer does not have clamp surfaces. To the extent that the Hummer spears **42** are considered to be clamping surfaces, they do not move toward each other to press against each other, and they also do not move toward the frame **20** to press against the frame **20**.

Even more importantly, the Hummer approach does not provide any clamps which have an open condition and a closed condition. Further, Hummer does not

disclose anything corresponding to the applicant's method in which the clamps while in their open condition are moved toward the sod (or the sod is moved toward the open clamps, or both), until the open clamps engage the upper portion of the sod, after which the clamps are closed. Only when the clamps are closed do they grip the sod. Thus, in the applicant's method there are separate and distinct steps which Hummer lacks, namely providing the clamps in open condition, moving the clamps while in open condition to engage the upper portion of the sod (or moving the sod toward the clamps, or both), and after the open clamps engage the sod, then closing the clamps and thereby gripping the sod. These distinct steps are an important part of the applicant's method and are completely lacking in the Hummer reference.

It is further submitted that claim 2 differs from Hummer not only for the reasons set forth above, but also because of its recitation that the clamps of the clamp set support the sod by clamping the grass blades with the clamp surfaces. It is submitted that supporting a sod slab, which is known to be a very heavy object (because of the weight of the earth) by suspending it from grass blades (grass blades are known to be relatively fragile and delicate) is not obvious and that a normal person skilled in the art would not be so foolhardy as to think of using such a method. In fact, in the comments given in the International Search, it was stated that the invention as claimed in the original claims was considered to be unobvious since it is not obvious to suspend a sod slab by the grass blades of the slab.

Former claims 25 and 26 have been deleted since their subject matter is now contained in claims 1, 2, 5 and 6.

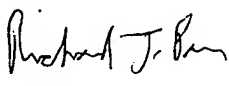
While claims 3, 4 and 7-24 have been withdrawn from consideration, it is respectfully submitted that at least claims 3, 4, 7 and 8 (with suitable amendments) claim directly related subject matter and can be examined with the pending claims.

If the Examiner believes that any further claim amendments are needed to distinguish from Hummer, or from other prior art of which the Examiner is aware, it would be appreciated if he would telephone to Richard Parr at (416) 364-7311 so that if further amendments are needed, they can be made.

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A separate letter is enclosed requesting a one month extension of time to respond. The required fees are also enclosed.

Respectfully submitted,
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